

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN HARDNEY,

Plaintiff,

No. CIV S-04-0476 DFL KJM P

vs.

ANTHONY LaMARQUE, et al.,

Defendants.

ORDER

_____/

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with an action filed pursuant to 42 U.S.C. § 1983. By order filed December 8, 2005, plaintiff's amended complaint was dismissed with leave to file a second amended complaint or to notify the court that plaintiff wishes to proceed on the first amended complaint as it was evaluated in the order of December 8. Plaintiff has now notified the court he wishes to proceed on the amended complaint, filed March 8, 2005.

The amended complaint states a cognizable claim for relief under 42 U.S.C. § 1983 and 28 U.S.C. § 1915A(b). If the allegations of the amended complaint are proven, plaintiff has a reasonable opportunity to prevail on the merits of this action.

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1 In accordance with the above, IT IS HEREBY ORDERED that:

2 1. Service is appropriate for the following defendants: LaMarque (insofar as
3 plaintiff alleges he violated plaintiff's First and Fourteenth Amendment rights), McDonald and
4 Burke.

5 2. The Clerk of the Court shall send plaintiff three USM-285 forms, one
6 summons, an instruction sheet and a copy of the amended complaint filed March 8, 2005.

7 3. Within thirty days from the date of this order, plaintiff shall complete the
8 attached Notice of Submission of Documents and submit the following documents to the court:

9 a. The completed Notice of Submission of Documents;

10 b. One completed summons;

11 c. One completed USM-285 form for each defendant listed in number 1
12 above; and

13 d. Four copies of the endorsed amended complaint filed March 8, 2005.

14 4. Plaintiff need not attempt service on defendants and need not request waiver of
15 service. Upon receipt of the above-described documents, the court will direct the United States
16 Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure 4
17 without payment of costs.

18 DATED: May 30, 2006.

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21 UNITED STATES MAGISTRATE JUDGE
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NOTICE OF SUBMISSION

OF DOCUMENTS

_____/

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

1 completed summons form

3 completed USM-285 forms

4 copies of the 3/8/05
Amended Complaint

DATED:

Plaintiff